

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 9. HEALTH SERVICES

#### CHAPTER 29. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM MEDICARE COST SHARING PROGRAM

[R06-81]

#### PREAMBLE

- 1. Sections Affected**  
R9-29-302
- Rulemaking Action**  
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 36-2903.01  
Implementing statute: A.R.S. §§ 36-2907 and 36-2971
- 3. The effective date of the rules:**  
March 7, 2006  
  
The rules are effective on filing with the Office of the Secretary of State as allowed under A.R.S. § 41-1032(A)(4). These rules provide a public benefit by clarifying the provisions of with the federal government's Medicare Part D prescription program. There is no penalty associated with a violation of the rules.
- 4. A list of all previous notices appearing in the *Register* addressing the final rule:**  
Notice of Rulemaking Docket Opening: 11 A.A.R. 5218, December 9, 2005  
Notice of Proposed Rulemaking: 11 A.A.R. 5177, December 9, 2005
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Linda Barry  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson, Mail Drop 6200  
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Telephone: (602) 417-4484  
Fax: (602) 253-9115  
E-mail: Linda.Barry@azahcccs.gov
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**  
AHCCCS is amending the Medicare Cost Sharing Program's rules to conform the current rules to the federal law implementing the Medicare Part D prescription drug benefit program.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
AHCCCS did not review any study relevant to these rules.

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**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

It is anticipated that members will be moderately impacted by the changes to the Medicare Cost Sharing rule language. The dually eligible members, those who are eligible for both Medicare and Medicaid, will receive most of their pharmaceuticals through the federal government's Medicare Part D program. Members may now be responsible for co-payments and that portion of the Medicare Part D premium that is not paid by the Part D Extra Help program. Contractors and providers will be nominally impacted by the Medicare Part D implementation. The impact to the contractors and providers includes administrative changes to their respective computer systems and ensuring the correct funding source is applied to the individual's record. AHCCCS is updating the existing rules to make them consistent with federal law changes for the Medicare Part D prescription drug benefit program and to make the rules clear, concise, and understandable.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

<b>Location</b>	<b>A description of the changes between the proposed rule and final rule</b>
General	Technical and grammatical changes were made at the suggestion of G.R.R.C. staff.

**11. A summary of the comments made regarding the rule and the agency response to them:**

There were two comments received by the agency that were not relevant to the rule. The comments dealt with questions pertaining to the federal government's Medicare Part D program, but not this current rulemaking.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously made as an emergency rule?**

No.

**15. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 29. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
MEDICARE COST SHARING PROGRAM**

**ARTICLE 3. BENEFITS AND SERVICES**

Section

R9-29-302. Dually Eligible Member

**ARTICLE 3. BENEFITS AND SERVICES**

**R9-29-302. Dually Eligible Member**

- A.** Covered services. A person determined to be a dually eligible member shall receive medical services and provisions under 9 A.A.C. 22, Article 2, or services and provisions under 9 A.A.C. 28, Article 2, in addition to the Medicare-related payments covered services under R9-29-301(A).
- B.** Payment responsibilities. AHCCCS shall pay the Medicare Part A and Part B premiums. The contractor shall pay the coinsurance and deductibles in accordance with the contract with AHCCCS.
- C.** Member responsibilities. A dually eligible member who receives services ~~in~~ under 9 A.A.C. 22, Article 2 or 9 A.A.C. 28, Article 2 from a provider within the contractor's network is not liable for any Medicare coinsurance, deductible, or copayment associated with those services and is not liable for any balance.

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- D.** Coordination of prescription drug benefit with Medicare Part D. Notwithstanding subsections (A) through (C), services do not include pharmaceutical services to the extent limited under 42 U.S.C. 1396u-5(d). A contractor is not liable for any Medicare coinsurance, deductible, or copayment associated with pharmaceutical services subject to the limitation under 42 U.S.C. 1396u-5(d).

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TITLE 9. HEALTH SERVICES

**CHAPTER 30. ~~REPEALED~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
MEDICARE PART D PRESCRIPTION COVERAGE EXTRA HELP SUBSIDY PROGRAM**

[R06-80]

**PREAMBLE**

**1. Sections Affected**

Article 1  
R9-30-101  
Article 2  
R9-30-201  
R9-30-202  
R9-30-203  
R9-30-204  
R9-30-205  
R9-30-206  
R9-30-207  
R9-30-208  
R9-30-209  
R9-30-210  
R9-30-211  
R9-30-212  
R9-30-213  
R9-30-214  
R9-30-215  
R9-30-216  
R9-30-217  
R9-30-218  
Article 3  
R9-30-301  
Article 4  
R9-30-401  
R9-30-402

**Rulemaking Action**

New Article  
New Section  
New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
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New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 36-2903.01

Implementing statute: A.R.S. § 36-2903

**3. The effective date of the rules:**

March 7, 2006

The rules are effective on filing with the Office of the Secretary of State as allowed under A.R.S. § 41-1032(A)(4). These rules provide a public benefit by clarifying the provisions of the federal government's Medicare Part D Extra Help subsidy as they relate to an individual who applies for the program with AHCCCS. There is no penalty associated with a violation of the rules.

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 11 A.A.R. 5219, December 9, 2005

Notice of Proposed Rulemaking: 11 A.A.R. 5179, December 9, 2005

Notice of Public Information: 11 A.A.R. 5413, December 23, 2005

**Notices of Final Rulemaking**

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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 E-mail: Linda.Barry@azahcccs.gov

**6. An explanation of the rule, including the agency's reason for initiating the rule:**

AHCCCS has initiated rulemaking for the Extra Help subsidy program. When a person is approved for the Extra Help program, Centers for Medicare & Medicaid Services (CMS) help pay an applicant's premium, deductible, and copayments associated with the new Medicare Part D prescription drug program, which became effective January 1, 2006. The applicant may apply for the Extra Help subsidy program with the Social Security Administration or with AHCCCS, under the requirements of Section 1860D-14(a)(3) of the Social Security Act. AHCCCS shall determine eligibility for the Extra Help applicant when the individual applies with AHCCCS instead of the Social Security Administration.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

AHCCCS did not review any study relevant to these rules.

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

It is anticipated that contractors, members, providers, and AHCCCS will be minimally impacted by the creation of the Extra Help subsidy program's rule language. AHCCCS is initiating the rulemaking to make the rules consistent with the federal law changes for the Medicare Part D prescription drug benefit program.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

<b>Location</b>	<b>A description of the changes between the proposed rule and final rule.</b>
R9-30-207, R9-30-209, and R9-30-211	The Medicare Part D subsidies final rules were published in the Federal Register on December 30, 2005. AHCCCS has updated the incorporations by reference from the March 4, 2005 proposed rules date to December 30, 2005.
General	AHCCCS made the rules more clear, concise, and understandable by making grammatical, punctuation, and technical changes throughout the rules.
General	Other technical and grammatical changes were made at the suggestion of G.R.R.C. staff.

**11. A summary of the comments made regarding the rule and the agency response to them:**

There were two comments received by the agency that were not relevant to AHCCCS rules. The comments dealt with questions pertaining to the federal government's Medicare Part D program, but not AHCCCS Extra Help subsidy program, which is the subject of this rulemaking.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

Notices of Final Rulemaking

**13. Incorporations by reference and their location in the rules:**

20 CFR 418.3301 to 418.3350, December 30, 2005, R9-30-207

42 CFR 423.773, January 28, 2005, R9-30-207

20 CFR 418.3401 to 418.3425, December 30, 2005, R9-30-209

42 CFR 423.773, January 28, 2005, R9-30-209

20 CFR 418.3010, December 30, 2005, R9-30-211

42 CFR 423.773, 42 CFR 423.780, and 42 CFR 423.782, January 28, 2005, R9-30-213

**14. Was this rule previously made as an emergency rule?**

No.

**15. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 30. ~~REPEALED~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
MEDICARE PART D PRESCRIPTION COVERAGE EXTRA HELP SUBSIDY PROGRAM**

**ARTICLE 1. DEFINITIONS**

Section

R9-30-101. General Definitions

**ARTICLE 2. ELIGIBILITY**

Section

R9-30-201. General

R9-30-202. Opportunity to Apply

R9-30-203. How to File an Application

R9-30-204. Assistance with an Application

R9-30-205. Social Security Number (SSN)

R9-30-206. Residency

R9-30-207. Income

R9-30-208. Ineligible Person

R9-30-209. Resources

R9-30-210. Verification

R9-30-211. Medicare Requirements

R9-30-212. Eligibility Determination

R9-30-213. Determination of Extra Help Amount

R9-30-214. Notice of Eligibility Determination by AHCCCS

R9-30-215. Effective Date of Eligibility

R9-30-216. Discontinuance of Eligibility or Change in the Extra Help Amount

R9-30-217. Redetermination

R9-30-218. Reporting Changes

**ARTICLE 3. SERVICES**

Section

R9-30-301. Legal Obligations

**ARTICLE 4. GRIEVANCE SYSTEM**

Section

R9-30-401. State Fair Hearing Request

R9-30-402. State Fair Hearing for an Applicant or a Member

**Notices of Final Rulemaking**

**ARTICLE 1. DEFINITIONS**

**R9-30-101. General Definitions**

In addition to definitions contained under 20 CFR 418.3010, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“Act” means the Social Security Act.

“AHCCCS” means the Arizona Health Care Cost Containment System.

“Extra Help” means the subsidies that are available for Medicare Part D premiums, deductibles, and co-payments in accordance with Section 1860D-14 of the Social Security Act (42 U.S.C. 1395w-114).

“SSA” means the Social Security Administration.

**ARTICLE 2. ELIGIBILITY**

**R9-30-201. General**

**A.** In accordance with the requirements of Section 1860D-14(a)(3) of the Act (42 U.S.C. 1395w-114(a)(3)), the applicant may apply for Extra Help with the SSA or with AHCCCS. AHCCCS shall offer to help an applicant complete the SSA’s application for Extra Help. If the applicant declines to apply with SSA for the Extra Help program, AHCCCS shall determine eligibility for Extra Help under this Article.

**B.** Confidentiality. The Administration shall maintain the confidentiality of an Extra Help applicant’s or member’s records and limit the release of safeguarded information under R9-22-512.

**R9-30-202. Opportunity to Apply**

The Administration shall provide the opportunity to apply without delay.

**R9-30-203. How to File an Application**

**A.** To apply for the Extra Help with AHCCCS, a person shall submit a written application form prescribed by AHCCCS to any AHCCCS office or outstation location.

**B.** The application is considered filed and complete under R9-22-1501(D).

**C.** An application shall be submitted by:

1. The applicant, or

2. The applicant’s personal representative.

**R9-30-204. Assistance with an Application**

**A.** AHCCCS shall allow a personal representative of an applicant’s choice to accompany, assist, and represent the applicant in the application process.

**B.** Assistance by AHCCCS. If requested, AHCCCS shall help a person complete an application.

**R9-30-205. Social Security Number (SSN)**

To be eligible for Extra Help, a person shall furnish a SSN or apply for a SSN.

**R9-30-206. Residency**

To be eligible for Extra Help, a person shall reside in Arizona.

**R9-30-207. Income**

**A.** AHCCCS shall calculate countable income under 20 CFR 418.3301 through 418.3350, as of December 30, 2005, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

**B.** AHCCCS shall determine income eligibility under 42 CFR 423.773 as of January 28, 2005, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

**R9-30-208. Ineligible Person**

A person residing in a penal institution is not eligible under this Article.

**R9-30-209. Resources**

**A.** AHCCCS shall calculate countable resources under 20 CFR 418.3401 through 418.3425, as of December 30, 2005, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

**B.** AHCCCS shall determine resource eligibility under 42 CFR 423.773, as of January 28, 2005, which is incorporated by

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reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

**R9-30-210. Verification**

To be eligible for Extra Help, a person shall provide verification, or authorize the release of verification, for all information necessary to complete the determination of eligibility.

**R9-30-211. Medicare Requirements**

A person is not eligible for Extra Help unless the person is a Medicare beneficiary as defined in 20 CFR 418.3010, December 30, 2005, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

**R9-30-212. Eligibility Determination**

Determinations of eligibility for Extra Help under this Article are made by AHCCCS within 45 days of the date of the application being filed if the individual applies with AHCCCS.

**R9-30-213. Determination of Extra Help Amount**

AHCCCS shall determine the amount of an applicant or member's Extra Help under 42 CFR 423.773, 42 CFR 423.780, and 42 CFR 423.782, as of January 28, 2005, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

**R9-30-214. Notice of Eligibility Determination by AHCCCS**

- A. Notice.** The administration shall send an applicant written notice of the eligibility decision. The notice shall include a statement of the action and an explanation of an applicant or member's hearing rights under 9 A.A.C. 34, Article 1.
- B. Approval.** If AHCCCS determines that the applicant is eligible, the notice shall contain the effective date of eligibility and the amount of the Extra Help.
- C. Denial.** If AHCCCS determines that the applicant is not eligible, the notice shall contain:
  - 1. The effective date of the decision;
  - 2. A statement detailing the reason for the decision, including specific financial calculations and the financial eligibility standard, if applicable; and
  - 3. The legal authority supporting the decision.

**R9-30-215. Effective Date of Eligibility**

The effective date of eligibility is the first day of the first month that the applicant is eligible for Extra Help under this Article, but no earlier than the month in which the applicant applies or January 1, 2006, whichever is later.

**R9-30-216. Discontinuance of Eligibility or Change in the Extra Help Amount**

- A. Discontinuance.** AHCCCS shall discontinue a person's eligibility if any of the conditions of eligibility under this Article are not met.
- B. Change in the amount of subsidy.** AHCCCS will adjust the amount of the Extra Help, if a change in countable income or a change in countable resources causes the subsidy amount to change.
- C. Notice.**
  - 1. AHCCCS shall follow the discontinuance notice requirements under R9-22-1501(K).
  - 2. AHCCCS will issue a notice if there is a change in the amount of the Extra Help.

**R9-30-217. Redetermination**

AHCCCS shall redetermine an individual's eligibility at least every 12 months.

**R9-30-218. Reporting Changes**

A member shall report any changes to AHCCCS, under R9-22-1501(H).

**ARTICLE 3. SERVICES**

**R9-30-301. Legal Obligations**

The Administration and Administration's designee are under no legal obligation to provide pharmaceutical services to individuals approved for Extra Help. Pharmaceutical services are provided by Medicare.

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**ARTICLE 4. GRIEVANCE SYSTEM**

**R9-30-401. State Fair Hearing Request**

A request for State Fair Hearing under this Chapter shall comply with 9 A.A.C. 34, Article 1.

**R9-30-402. State Fair Hearing for an Applicant or a Member**

A State Fair Hearing for a member or an applicant under this Chapter shall comply with 9 A.A.C. 34, Article 1.

**NOTICE OF FINAL RULEMAKING**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
TITLE, REGISTRATION, AND DRIVER LICENSES**

[R06-78]

**PREAMBLE**

**1. Sections Affected**

R17-4-401  
R17-4-411  
R17-4-412

**Rulemaking Action**

Amend  
New Section  
New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-366

Implementing statute: Laws 2005, Chapter 312, A.R.S. §§ 28-673, 28-1301, 28-1321, 28-1383, 28-1401, 28-1402, 28-1403, 28-1441, 28-1461, 28-1463, 28-1464, 28-3159, 28-3166, 28-3319, 28-3320, 28-3322

**3. The effective date of the rules:**

March 7, 2006

The Division is requesting an immediate effective date in accordance with A.R.S. § 41-1032(A)(4) as a benefit to the public. The Division will be able to identify those individuals with a SIIRDL and CIID who attempt to operate the vehicle while their blood alcohol concentration is above the presumptive limit as prescribed by law, and take appropriate action as necessary, to make the public roadways safe. Additionally, the benefit to law enforcement to easily determine when an individual is required to have a functioning CIID in the vehicle the individual is operating will increase public safety by removing violators from the public highways.

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 11 A.A.R. 5221, December 9, 2005

Notice of Proposed Rulemaking: 11 A.A.R. 5310, December 16, 2005

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.azdot.gov/mvd/mvdrules/rules.asp](http://www.azdot.gov/mvd/mvdrules/rules.asp).

**6. An explanation of the rule, including the agency's reason for initiating the rule:**

Laws 2005, Chapter 312 amends Title 28, Chapter 4, Arizona Revised Statutes by adding Article 3.1 (A.R.S. §§ 28-1401, 1402, and 1403), regarding the creation of a special ignition interlock restricted driver license "SIIRDL." Additionally, conforming amendments were made to A.R.S. §§ 28-673, 28-1301, 28-1321, 28-1383(A)(3), 28-1441, 28-1461, 28-1463, 28-1464, 28-3159, 28-3166, 28-3319, 28-3320, and 28-3322. Effective February 1, 2006, a SIIRDL is created for qualifying individuals during a period of suspension or revocation for alcohol-related offenses. A person



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whose Class D or G Driver License has been suspended for refusal to submit to a blood alcohol concentration test or revoked for an extreme or aggravated DUI may apply to the Division for a SIIRDL, which allows a person to operate a motor vehicle as restricted by law and equipped with a certified ignition interlock device "CIID" during the period of suspension or revocation. Also, the new law states that the Division shall issue a SIIRDL to a person under eighteen years of age, or a person age eighteen, nineteen, or twenty, who has a court-ordered restriction pursuant to A.R.S. §§ 28-3320 or 28-3322, respectively.

The Division is proposing this rule to:

- Clarify application requirements for a person to be eligible for a SIIRDL;
- Set application fees for the SIIRDL, which are age-appropriate and consistent with a non-SIIRDL driver license application fee;
- Clarify the driving restrictions for SIIRDL holders;
- Clarify installer reporting requirements and criteria;
- Ensure financial responsibility requirements are met;
- Clarify when the Division will extend a SIIRDL; and
- Clarify hearing procedures when the Division extends a SIIRDL.

A subsection, Burden of proof and presumptions, was added at the request of the Division's Executive Hearing office.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The agency did not review any study for this rulemaking.

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

The Division may experience a minimal to moderate economic impact for rulemaking, programming, training, and advertising. An applicant for a SIIRDL may experience a minimal impact for the \$25 application fee associated with the SIIRDL and any screening or education that may be required. The number of SIIRDLs issued is not readily quantifiable as this is a new credential being issued by the Division. The cost for the SIIRDL to a qualified individual does not outweigh the benefit of that individual having a clearly marked credential allowing them to drive to their jobs and other locations as restricted during the period of suspension or revocation. CIID installers may experience a moderate impact for acquiring the capability to report required information electronically, to the Division, as required by this rule. The benefit of safety to the motoring public outweighs the cost to an installer as the Division will be able to identify those individuals with a SIIRDL and CIID who attempt to operate the vehicle while their blood alcohol concentration is above the presumptive limit as prescribed by law, and take appropriate action as necessary, to make the public roadways safe. Additionally, the benefit to law enforcement to easily determine when an individual is required to have a functioning CIID in the vehicle the individual is operating will increase public safety by removing violators from the public highways.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor technical and grammatical changes were made for clarity.

**11. A summary of the comments made regarding the rule and the agency response to them:**

None

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously made as an emergency rule?**

No.

**15. The full text of the rules follows:**

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TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 4. DRIVER LICENSES

Section

R17-4-401. Definitions

R17-4-411. ~~Recodified~~ Special Ignition Interlock Restricted Driver License: Application, Restrictions, Reporting, Fee

R17-4-412. ~~Recodified~~ Extension of a Special Ignition Interlock Restricted Driver License: Hearing; Burden of Proof and Presumptions

ARTICLE 4. DRIVER LICENSES

**R17-4-401. Definitions**

The following definitions apply to this Article unless otherwise specified:

“Certified ignition interlock device has the meaning prescribed in A.R.S. § 28-1301(1).

~~1.~~ “Division” means the Arizona Department of Transportation, Motor Vehicle Division.

“Education” has the meaning prescribed in A.R.S. § 28-1301(3).

~~2.~~ “Financial responsibility (accident) suspension” means suspension by the Division of:

~~a.~~ The Arizona driver license or driving privilege of an owner of a vehicle that:

~~i.~~ Lacks the coverage required by A.R.S. § 28-4135, and

~~ii.~~ Is involved in an accident in Arizona; and

~~b.~~ The Arizona registration of a vehicle specified under R17-4-402(A), unless the Division receives proof the vehicle was sold.

“Ignition interlock device” has the meaning prescribed in A.R.S. § 28-1301(4).

~~3.~~ “Proof the vehicle was sold” means a written statement to the Division from an owner that includes the following:

~~a.~~ The seller’s name,

~~b.~~ The VIN,

~~c.~~ The sale date, and

~~d.~~ The purchaser’s name and address.

~~4.~~ “Restricted permit” means written permission from the Division for:

~~a.~~ A person subject to a financial responsibility (accident) suspension to operate a motor vehicle only:

~~i.~~ Between the person’s home and workplace,

~~ii.~~ During the person’s work-related activities, or

~~iii.~~ Between the person’s home and school; and

~~b.~~ A vehicle with an Arizona registration subject to a financial responsibility (accident) suspension to be operated by a person specified under R17-4-402 only:

~~i.~~ Between the person’s home and workplace;

~~ii.~~ During the person’s work-related activities; or

~~iii.~~ Between the person’s home and school.

“Screening” has the meaning prescribed in A.R.S. § 28-1301(8).

~~5.~~ “State” means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

~~6.~~ “SR22” means a certificate of insurance that complies with requirements under A.R.S. § 28-4077(A).

“Tampering” has the meaning prescribed in A.R.S. § 28-1301(9).

“Treatment” has the meaning prescribed in A.R.S. § 28-1301(10).

~~7.~~ “VIN” or “vehicle identification number” is defined in A.R.S. § 13-4701(4).

~~8.~~ “Withdrawal action” means a Division action that invalidates a person’s Arizona driving privilege or a vehicle’s Arizona registration that includes:

~~a.~~ A suspension;

~~b.~~ A revocation;

~~c.~~ Any outstanding warrant; or

~~d.~~ Any unresolved citation.

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**R17-4-411. Recodified Special Ignition Interlock Restricted Driver License: Application, Restrictions, Reporting, Fee**

- A.** In addition to the requirements prescribed in A.R.S. § 28-3158, an person applying for a special ignition interlock restricted driver license shall:
1. If the person is suspended for a first offense of A.R.S. § 28-1321:
    - a. Complete at least 90 consecutive days of the period of the suspension, and
    - b. Maintain a functioning certified ignition interlock device during the remaining period of the suspension.
  2. If the person is revoked for a first offense of A.R.S. § 28-1383(A)(3):
    - a. Complete at least 90 consecutive days of the suspension under A.R.S. § 28-1385.
    - b. Submit proof to the Division that the person has completed an approved alcohol or drug screening or treatment program, and
    - c. Maintain a functioning certified ignition interlock device during the remaining period of the revocation.
  3. If the person has a court-ordered restriction under A.R.S. §§ 28-3320 or 28-3322:
    - a. Comply with the restrictions in subsection (C), and
    - b. Maintain a functioning certified ignition interlock device during the remaining period of the court-ordered restriction.
- B.** The Division shall not issue a special ignition interlock restricted driver license if the person's driver license or driving privilege is suspended or revoked for a reason not under subsections (A)(1), (2), or (3).
- C.** A person applying for a special ignition interlock restricted driver license shall pay the following fees:
1. Age 50 or older                      \$10.00
  2. Age 45 – 49                      \$15.00
  3. Age 40 – 44                      \$20.00
  4. Age 39 or younger              \$25.00
- D.** A special ignition interlock restricted driver license issued under subsection (A), permits a person to operate a motor vehicle equipped with a functioning certified ignition interlock device as prescribed in A.R.S. § 28-1402(A).
- E.** Reporting. On the eleventh month after the initial date of installation and each eleventh month thereafter for as long as the person is required to maintain a functioning certified ignition interlock device, each installer shall electronically provide the Division all of the following information as recorded by the certified ignition interlock device:
1. Date installed;
  2. Person's full name;
  3. Person's date of birth;
  4. Person's customer or driver license number;
  5. Installer and manufacturer name;
  6. Installer fax number;
  7. Date report interpreted;
  8. Report period;
  9. Any tampering of the device within the meaning of A.R.S. § 28-1301(9);
  10. Any failure of the person to provide proof of compliance or inspection as prescribed in A.R.S. § 28-1461;
  11. Any attempts to operate the vehicle with an alcohol concentration exceeding the presumptive limit prescribed in A.R.S. § 28-1381(G)(3), or if the person is younger than 21 years of age, attempts to operate the vehicle with any spirituous liquor in the person's body; and
  12. Any other information required by the Director.
- F.** A person applying for a special ignition interlock restricted driver license shall provide proof of financial responsibility prescribed in Title 28, Arizona Revised Statutes, Chapter 9, Article 3.

**R17-4-412. Recodified Extension of a Special Ignition Interlock Restricted Driver License: Hearing, Burden of Proof and Presumptions**

- A.** Extension. The Division shall extend a person's special ignition interlock restricted driver license for a period of one year if the Division has reasonable grounds to believe:
1. The person tampered with the certified ignition interlock device within the meaning of A.R.S. § 28-1301(9).
  2. The person fails to provide proof of compliance prescribed in A.R.S. § 28-1461, or
  3. The person attempted to operate the vehicle with an alcohol concentration exceeding the presumptive limit prescribed in A.R.S. § 28-1381(G)(3) three or more times during the period of license restriction or limitation, or if the person is younger than 21 years of age, attempted to operate the vehicle with any spirituous liquor in the person's body three or more times during the period of license restriction or limitation.
- B.** Hearing. If a person's special ignition interlock restricted driver license is extended under subsection (A), the person may submit, within 15 days of the date of the order of extension of the restriction, a written request to the Division requesting a hearing. A request for hearing stays the extension of the restriction.
- C.** Burden of proof and presumptions.
1. The hearing office shall presume that the person's whose special ignition interlock restricted driver license is

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extended under subsection (A)(3), was the person in control of the vehicle and the person attempted to operate the vehicle with an alcohol concentration exceeding the presumptive limit in A.R.S. § 28-1381, or tampered with the device within the meaning of A.R.S. § 28-1301(9).

2. The person may be rebut the presumption by a showing of clear and convincing evidence that the person whose special ignition interlock restricted driver license being extended, was not the person in control of the vehicle or attempted to operate the vehicle with an alcohol concentration exceeding the presumptive limit in A.R.S. § 28-1381, or tampered with the device within the meaning of A.R.S. § 28-1301(9).

**D.** Except for subsection (A)(2), if the Division suspends, revokes, cancels, or otherwise rescinds a person's special ignition interlock restricted driver license for any reason, the Division shall not issue a new license or reinstate the special ignition interlock restricted driver license during the original period of suspension or revocation or while the person is otherwise ineligible to receive a license.